

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

TERRY ALTON PARKER,

Plaintiff,

v.

Case No. 18-cv-106-JPG-RJD

RANDALL PASS, CASEY FRANKS,  
LESLEE BROOKS, PATRICK TROVILION,  
CALEB MEYER, KAREN WAGGONER,  
UNITED STATES OF AMERICA, and  
FEDERAL BUREAU OF PRISONS HEALTH  
SERVICES DIVISION,

Defendants.

**MEMORANDUM AND ORDER**

This matter comes before the Court on the Report and Recommendation (“Report”) (Doc. 66) of Magistrate Judge Reona J. Daly recommending that the Court grant the motion of defendant United States of America to dismiss Count 1 of the Amended Complaint (Doc. 58), and the second motion of defendants Randall Pass, Casey Franks, Leslee Brooks, and Patrick Trovillion for summary judgment on Count 2 of the Amended Complaint based on plaintiff Terry Alton Parker’s failure to exhaust administrative remedies (Doc. 59).

The Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in a report and recommendation. Fed. R. Civ. P. 72(b)(3). The Court must review *de novo* the portions of the report to which objections are made. *Id.* “If no objection or only partial objection is made, the district court judge reviews those unobjected portions for clear error.” *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

The Court has received no objection to the Report. The Court has reviewed the entire

file and finds that the Report is not clearly erroneous. Accordingly, the Court hereby:

- **ADOPTS** the Report in its entirety (Doc. 66);
- **GRANTS** defendant United States of America to dismiss Count 1 of the Amended Complaint (Doc. 58);
- **DISMISSES** Count 1 **without prejudice** and with leave to amend within 30 days to attach the certificate of merit required by 735 ILCS § 5/2-622(a). The Court **WARNS** Parker that, should he fail to appropriately amend his complaint in a timely manner, the Court will assume he is unable to do so and will dismiss Count 1 with prejudice;
- **GRANTS** the second motion of defendants Pass, Franks, Brooks, and Trovillion for summary judgment on Count 2 of the Amended Complaint based on failure to exhaust administrative remedies (Doc. 59);
- **DISMISSES** Count 2 **without prejudice**; and
- **DIRECTS** the Clerk of Court to enter judgment accordingly at the close of the case.

**IT IS SO ORDERED.**

**DATED: August 19, 2019**

s/ J. Phil Gilbert  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**